

REMARKS

This is in response to the Office Action dated January 10, 2005, and the references cited therewith.

Claims 1, 50, 55, 66, and 72 are amended. Claims 1-5, 7-9, 42-44, 49-53, and 55-77 are pending in this application.

Information Disclosure Statement

In the Office Action, Examiner Dolinar indicated the foreign patent documents submitted with the Information Disclosure Statement, filed on October 14, 2004, would not be considered because it does not include a concise explanation of the relevance, as it is presently understood by the individually designate in 37 C.F.R. 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English Language.

Applicant respectfully resubmits copies of JP-52-004051, JP-59-083772 and WO-98/27562 herewith and further requests that a copy of the 1449 Form, initialed as having been considered by the Examiner, be returned to Applicants' Representative with the next Official communication.

Declaration Under 37 CFR 1.131

The Office Action stated that the declaration filed on October 14, 2004 under 37 C.F.R. 1.131 has been considered but is ineffective to overcome the Miltich et al. reference.

Applicant submits herewith a new declaration under 37 CFR 1.131.

§102 Rejection of the Claims

Claims 1, 3-5, 9, 49, 50, 55, 66, 68, 69, 72, 74 and 75 were rejected under 35 USC § 102(b) as being anticipated by Macpherson (U.S. Patent No. 1,474,486).

Claims 1, 3-5, 9, and 49

Applicant has amended claim 1 to better describe the subject matter recited in the claim. Applicant believes claim 1 is not anticipated by the cited reference since the reference does not include each limitation recited in the claim. For example, Applicant cannot find in the cited

reference, a capacitor comprising a flat capacitor stack including a plurality of flat aluminum metal layers positioned in the case, as recited in claim 1.

Claims 3-5, 9, and 49 include each limitation of their parent claim and are therefore also not anticipated by the cited reference. Reconsideration and allowance is respectfully requested.

Claim 50

Applicant has amended claim 50 to better describe the subject matter recited in the claim. Applicant believes claim 50 is not anticipated by the cited reference since the reference does not include each limitation recited in the claim. For example, Applicant cannot find in the cited reference, a capacitor comprising a flat capacitor stack positioned in the container, the flat capacitor stack including a plurality flat aluminum metal layers, as recited in claim 50. Reconsideration and allowance is respectfully requested.

Claim 55

Applicant has amended claim 55 to better describe the subject matter recited in the claim. Applicant believes claim 55 is not anticipated by the cited reference since the reference does not include each limitation recited in the claim. For example, Applicant cannot find in the cited reference, providing a conductor connected to at least one aluminum metal layer of a plurality of flat aluminum metal layers, as recited in claim 55. Reconsideration and allowance is respectfully requested.

Claims 66, 68, and 69

Applicant has amended claim 66 to better describe the subject matter recited in the claim. Applicant believes claim 66 is not anticipated by the cited reference since the reference does not include each limitation recited in the claim. For example, Applicant cannot find in the cited reference, a capacitor comprising a flat capacitor stack including a plurality of flat aluminum metal layers positioned in the case, as recited in claim 66.

Claims 68 and 69 include each limitation of their parent claim and are therefore also not anticipated by the cited reference. Reconsideration and allowance is respectfully requested.

Claims 72, 74, and 75

Applicant has amended claim 72 to better describe the subject matter recited in the claim. Applicant believes claim 72 is not anticipated by the cited reference since the reference does not include each limitation recited in the claim. For example, Applicant cannot find in the cited reference, a capacitor comprising a flat capacitor stack including a plurality of flat aluminum metal layers positioned in the case, as recited in claim 72.

Claims 74 and 75 include each limitation of their parent claim and are therefore also not anticipated by the cited reference. Reconsideration and allowance is respectfully requested.

Claims 1-5, 7-9, 42-44, 49-53, 55-59, 61, 64, 66-70 and 72-76 were rejected under 35 USC § 102(e) as being anticipated by Miltich et al. (U.S. Patent No. 6,402,793).

Applicant submits that there are numerous distinctions between the subject matter recited in claims 1-5, 7-9, 42-44, 49-53, 55-59, 61, 64, 66-70, and 72-76 and the subject matter discussed in the Miltich et al. reference. However, Applicant has submitted herewith a declaration of Brian L. Schmidt, under 37 CFR 1.131. This declaration swears behind June 30, 2000, the effective filing date of the Miltich et al. patent. Accordingly, Applicant submits that the Miltich patent is unavailable as prior art against the present claims. Reconsideration and allowance is respectfully requested.

§103 Rejection of the Claims

Claims 60, 62, 63, 65, 71 and 77 were rejected under 35 USC § 103(a) as being unpatentable over Miltich et al. (U.S. Patent No. 6,402,793) in view of Rorvick et al. (U.S. Patent No. 6,009,348). As noted above, Applicant has submitted a declaration to remove the Miltich patent as prior art against the present claims.

Moreover, Applicant believes the present Office Action does not support a *prima facie* case of obvious. The Office Action must provide specific, objective evidence of record for a finding of a suggestion or motivation to combine or modify reference teachings and must explain the reasoning by which the evidence is deemed to support such a finding. *In re Lee*. Applicant respectfully submits that the Office Action has not provided objective evidence for a suggestion or motivation to modify the reference, but has merely made an unsupported assertion. Reconsideration and allowance is respectfully requested.

Claims 6 and 54 were rejected under 35 USC § 103(a) as being unpatentable over Miltich et al. (U.S. Patent No. 6,402,793) in view of Kemkers et al. (U.S. Patent No. 3,938,228). Applicant notes that claims 6 and 54 were cancelled in the previous response and are no longer pending in this application.

Conclusion

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 359-3267 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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By their Representatives,

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Date 7/11/05

By Peter C. Maki

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: MS Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 11 day of July, 2005.

Paula Sucky

Name

Paula Sucky

Signature